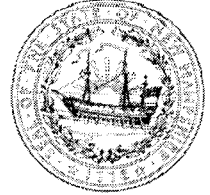




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

August 11, 2006

CERTIFIED MAIL RETURN RECEIPT
7005 1160 0004 7470 0101

LETTER OF DEFICIENCY
No. WMD 06-018

Sam Kay, Principal
Swanzy 12, LLC
P.O. Box 190071
Brooklyn, New York 11219

Subject Site: **Swanzy**, Brnger Auto Salvage, 304 Monadnock Highway
DES Site #200309074, Project Type AST, UST, REM

**Aboveground and Underground Petroleum Storage Tank Facility
Compliance Inspection**

Dear Mr. Kay:

On August 3, 2006, personnel from the Department of Environmental Services, Waste Management Division (DES) conducted an inspection of the Subject Site. The purpose of this inspection was to determine the level of compliance relative to RSA 146-A, RSA 147-B, and the New Hampshire Code of Administrative Rules Env-Wm 1402, Control of Aboveground Petroleum Storage Facilities (AST Rules) and Env-Wm 1401, Underground Storage Facilities. The following deficiencies were found and must be addressed immediately:

1. Heavily stained soil and open pools of petroleum permeating into the soil exist at locations immediately south of the "Garage" and northwest of the "Tire Pile" as shown on the existing conditions plan prepared by TFM on March 3, 2004 (ECP). RSA 146-A:4 requires that the owner undertake immediate measures to minimize the extent of pollution and damage caused by an oil discharge or spillage. Swanzy 12, LLC must immediately contain or remove the discharges and contaminated soil.
2. Approximately twelve 55-gallon drums filled with unidentified contents that may include hazardous waste exist lying on bare ground. The majority of the drums are located to the northwest and west-northwest of the "Tire Pile" as shown on the ECP. Env-Wm 1402.29 of the AST Rules state that if any inspection reveals a leak or deficiency, the owner shall promptly implement remedial measures to eliminate the leak or deficiency. Swanzy 12, LLC must immediately remove the 55-gallon drums from the site.

3. Two unregistered 275-gallon aboveground petroleum storage tanks (ASTs) are located at the southeast side of the "Garage" as shown on the ECP. The AST Rules require that the owner take the ASTs out of service. Swanzey 12, LLC must immediately remove all petroleum, thoroughly clean the tank interiors, and take the ASTs out of service in accordance with Env-Wm 1402.12.
4. An unregistered, unpermitted, buried UST of unknown capacity holding a depth of approximately 8.5-inches of petroleum exists under the outdoor "Concrete" pad on the southeast side of the "2 Story Bldg" as shown on the ECP. Both state (Env-Wm 1401) and federal (40 CFR Part 280) rules required that the owner sufficiently upgrade or permanently close the underground storage tank (UST) no later than December 22, 1998. Swanzey 12, LLC must immediately remove all petroleum, clean, and remove the UST in accordance with Env-Wm 1401.18(g).
5. An unregistered, unpermitted, buried single wall steel transport trailer tank full of petroleum exists in the "1 Story Bldg" as shown on the ECP. Both state (Env-Wm 1401) and federal (40 CFR Part 280) rules required that the owner sufficiently upgrade or permanently close the UST no later than December 22, 1998. The owner must immediately remove all petroleum, clean, and remove the UST in accordance with Env-Wm 1401.18(g). DES understands that this UST may have been installed on property owned by the New Hampshire Department of Transportation (DOT) and will enter separate discussions with DOT on this matter.

If you **correct the deficiencies numbered 1 through 4 to the satisfaction of DES within 7-days** of the date of this letter you will avoid enforcement action per New Hampshire RSA 146-A:15 and New Hampshire Code of Administrative Rules Env-C 600 for those deficiencies. Enforcement action may include administrative fines of not more than \$2,000 per violation per day, administrative orders, and/or civil penalties of not more than \$10,000 per violation per day.

Provide DES with documentation as soon as any of the deficiencies have been corrected. This documentation must take the form of a letter, signed by the owner or owner's authorized representative, stating how each deficiency was corrected. Be specific and detail how each deficiency was corrected.

Due to the potential imminent threat to the environment, **if the above noted deficiencies are not corrected within 7-days** of the date of this letter, DES will direct its environmental consultant to proceed with the required work pursuant to RSA 146-A:4.III. In accordance with RSA 146-A:9 and RSA 147-B:10-b, the owner will be responsible for all costs incurred by DES in conducting the work, and DES will take such action as necessary to recover those costs.

Other, less urgent deficiencies, such as the owner's failure to register the ASTs and USTs pursuant to the April 10, 2006 DES letter, will be addressed in future correspondence from DES. Actions conducted in response to the deficiencies outlined in this letter shall not alleviate the owner from the responsibility of the on going site investigation.

Should you have any questions concerning the content of this letter, please contact Michael W. Juranty, P.E. in the Waste Management Division of DES. DES appreciates your willingness to comply with the AST program in an effort to preserve New Hampshire's environment.

Sincerely,



Michael W. Juranty, P.E.
Oil Remediation and Compliance Bureau
Tel: (603) 271-6058
Fax: (603) 271-2181
E-mail: mjuranty@des.state.nh.us

cc: Howard P. Davis, Law Office of Howard P. Davis
Dale P. O'Connell, DOT
Swanzey Health Officer
Anthony P. Giunta, P.G., Director, WMD
Gretchen Hamel, Administrator, DES Legal Unit
Rick Berry, DES
Joshua C. Whipple, DES